

AMENDED IN SENATE MAY 14, 2009

AMENDED IN SENATE APRIL 21, 2009

SENATE BILL

No. 258

Introduced by Senator Oropeza

February 24, 2009

An act to add Sections 7058.1, 7058.2, and 7138.2 to the Business and Professions Code, relating to contractors, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 258, as amended, Oropeza. Contractors: public works.

Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law authorizes the board to set application, licensure, and renewal fees, among others, not to exceed certain limits, and provides for the deposit of those fees in the Contractors' License Fund, a continuously appropriated fund. Existing law requires the awarding authority to determine the license classification necessary to bid and perform on public works contracts, as defined.

This bill would, on and after January 1, 2012, prohibit a contractor from performing work as a contractor or subcontractor on a public work, as defined, contracted for by the state or a state agency unless he or she has obtained a public works certification from a state certifying agency to be determined by the Legislature. The bill would require the certifying agency to establish and validate standards of competency through a prequalification certification system by January 1, 2011. The certifying agency would also be authorized to deny or revoke a public works certification under specified circumstances. The bill would require the agency to charge each applicant a fee in an amount sufficient to pay for

the costs of administering the prequalification and certification, not to exceed certain amounts, as specified. The bill would also create the ~~continuously appropriated~~ Public Works Certification Fund within the State Treasury in which fee moneys would be deposited and used only for these purposes *upon appropriation by the Legislature*.

~~Because the bill would create a continuously appropriated fund, the bill would make an appropriation.~~

Vote: majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7058.1 is added to the Business and
2 Professions Code, to read:

3 7058.1. (a) To promote the safety of California's publicly
4 owned facilities and to ensure the best use of California tax dollars
5 it is the intent of the Legislature to certify that only the most
6 qualified contractors perform on public works projects.

7 (b) On and after January 1, 2012, a contractor shall not perform
8 work as a contractor or subcontractor on a public work that is
9 contracted for by the state or a state agency or any other public
10 agency unless the contractor has obtained a public works
11 certification from a state certifying agency to be determined by
12 the Legislature. To obtain a public works certification, the qualifier
13 for a license shall submit to the certifying agency the public works
14 certification prequalification document developed pursuant to
15 Section 7058.2 and administered by the certifying agency and
16 receive certification from the certifying agency.

17 (c) This section shall not be construed to affect the requirements
18 imposed by subdivision (b) of Section 7059.

19 (d) This section shall not be construed to restrict the state or
20 any other public agency from imposing additional requirements
21 on contractors in awarding public works contracts.

22 (e) The certifying agency may deny or revoke a public works
23 certification if the contractor fails or has failed to comply with the
24 laws or regulations applicable to public works or if the contractor
25 commits or has committed any of the acts constituting grounds for
26 denial of a license under Section 480. Procedures upon denial of
27 a public works certification shall be conducted in accordance with
28 Section 485. Procedures for revocation of a public works

1 certification shall be conducted in accordance with Chapter 5
2 (commencing with Section 11500) of Part 1 of Division 3 of Title
3 2 of the Government Code.

4 (f) This section shall not be construed as expanding the
5 enforcement authority of the agency.

6 (g) “Public agency,” for purposes of this chapter, means a city,
7 county, city and county, including chartered cities and chartered
8 counties, the University of California and any special district, and
9 any other political subdivision of the state for the local performance
10 of governmental or proprietary functions within limited boundaries.
11 “Public agency” also includes a nonprofit transit corporation wholly
12 owned by a public agency and formed to carry out the purposes
13 of the public agency.

14 (h) For purposes of this section, “public work” means any work
15 that is subject to the requirements of Chapter 1 (commencing with
16 Section 1720) of Part 7 of Division 2 of the Labor Code.

17 SEC. 2. Section 7058.2 is added to the Business and Professions
18 Code, to read:

19 7058.2. (a) The certifying agency shall do all of the following:

20 (1) On or before January 1, 2011, establish and validate
21 minimum standards for the competency and prequalification of all
22 contractors performing work on public works projects through a
23 system of prequalification certification pursuant to Section 7058.1.

24 (2) On or before March 1, 2010, establish advisory committees
25 and panels as necessary to carry out the functions under this
26 section. There shall be contractor representation from both the
27 general contractor community and the subcontractor community
28 with at least one representative from the following organizations
29 on all committees or panels: Associated General Contractors,
30 Construction Employers Association, California Legislative
31 Conference of the Plumbing, Heating and Piping Industry, and the
32 National Electrical Contractors Association. In addition there shall
33 be at least one representative from organized labor on any
34 committee or panel. This labor position shall be the designee of
35 the California Building and Construction Trades Council.

36 (3) On or before January 1, 2011, establish fees necessary to
37 implement this section and charge each applicant for a public works
38 certification the determined fee.

39 (4) On or before July 1, 2011, establish and adopt regulations
40 to enforce this section.

1 (5) Issue certification cards to contractors who have been
2 prequalified and certified pursuant to this section.

3 (6) ~~Fees—Deposit fees~~ collected pursuant to paragraph (3) ~~shall~~
4 ~~be deposited~~ in the Public Works Certification Fund.

5 (7) Make information on contractors certified pursuant to this
6 section publicly available.

7 (b) The public works prequalification certification shall be
8 developed according to professionally accepted principles for
9 prequalification and should adhere as closely as possible to the
10 guidelines set forth in Section 20101 of the Public Contract Code.
11 The certification shall not be based on a per-project basis and shall
12 be based on a per-applicant basis.

13 SEC. 3. Section 7138.2 is added to the Business and Professions
14 Code, to read:

15 7138.2. (a) In addition to the fee schedule specified in Section
16 7137, the application fee for a public works certification
17 examination, until December 31, 2014, shall not be more than
18 sixty-five dollars (\$65), and on and after January 1, 2015, shall
19 not be more than one hundred twenty-five dollars (\$125). Sections
20 7138 and 7138.1 shall apply to this section. Those fees shall be
21 deposited in the Public Works Certification Fund.

22 (b) The Public Works Certification Fund is hereby created as a
23 special account within the State Treasury. ~~Notwithstanding Section~~
24 ~~13340 of the Government Code, money in the fund is continuously~~
25 ~~appropriated~~ *Upon appropriation by the Legislature to the*
26 *certifying agency, money in the fund may be used* for the costs of
27 the agency to prequalify and certify contractors and subcontractors
28 pursuant to Section 7058.1, and to pay for the costs of issuing
29 certification cards under Section 7058.2, and shall not be used for
30 any other purpose.

31 (c) The fund shall consist of the fees collected pursuant to
32 paragraph (3) of subdivision (a) of Section 7058.2 and subdivision
33 (a) of this section.